

Alaska Statues 2006

Chapter 41.15 FORESTS

Article 01. PROTECTION OF FORESTED LAND

Sec. 41.15.010. Intent.

It is the intent of AS 41.15.010 - 41.15.170 to provide protection, commensurate with the value of the resources at risk, for the natural resources and watersheds on land that is owned privately, by the state, or by a municipality.

Sec. 41.15.020. Regulations.

The commissioner shall, by regulation, make provision for the protection of forested land in the state from fire and other destructive agents.

Sec. 41.15.025. Fire protection on mental health trust land.

Land that is in the mental health trust is, for the purpose of wild fire suppression, land owned by the state.

Sec. 41.15.030. Contracts for forest protection; emergency fire-fighters.

(a) The commissioner may enter into necessary protection contracts.

(b) The commissioner may hire emergency fire-fighting personnel, and shall establish classifications and rates of pay for the emergency fire-fighting personnel consistent with the compensation paid by other fire-fighting agencies. The commissioner may adjust the classifications and rates based on findings of the federal Bureau of Land Management for Alaska. The commissioner may assign emergency fire-fighting personnel to conduct fire suppression, hazard reduction, fire prevention, habitat restoration or improvement, and other related activities in emergency and nonemergency circumstances. The assignment of emergency fire-fighting personnel to nonemergency activities may not be used to replace permanent or seasonal state employees. The commissioner may not use appropriations to the department from state general funds for emergency fire-fighting personnel engaged in nonemergency activities under this section.

Sec. 41.15.040. Right of entry to control and suppress fires.

Upon approval by the commissioner or an authorized agent, employees of the division of lands, or of any organization authorized to prevent, control, or suppress fires or destructive agents, and others assisting in the control or suppression of fires upon request of an officer or employee of the United States or the state may at any time enter upon any land, whether publicly or privately owned, for the purpose of preventing, suppressing, or controlling forest fires and destructive agents.

Sec. 41.15.045. Civil immunity.

(a) Notwithstanding other provisions of law, a person may not bring a civil action for damages for death, personal injury, or property damage that results from an act or

omission in performing or failing to perform activities or duties arising out of prevention, monitoring, control, or suppression of fires authorized to be performed under AS 41.15.010 - 41.15.170 against

(1) the state or its officers, agents, and employees;

(2) a political subdivision of the state or its officers, agents, and employees;

(3) any organization authorized to prevent, control, or suppress fires; or

(4) others assisting in the control or suppression of fires at the request of an officer or employee of the United States or the state.

(b) This section does not apply to a civil action for damages as a result of intentional misconduct within the course and scope of employment or agency and with complete disregard for the safety and property of others.

Sec. 41.15.050. Fire season.

The period from April 1 to August 31, inclusive, of each year is designated the fire season. The commissioner may designate other periods as fire season. The commissioner may proclaim an additional period for all or any portion of the state when weather or other conditions require action for the protection of forested land. The commissioner may also, during the fire season, prohibit, or allow only by permit, the setting of fires, smoking, entry, or other use on the land, when, in the judgment of the commissioner, the activities would unduly increase the fire danger.

Sec. 41.15.060. Permits.

The commissioner shall, by regulation, prescribe the conditions of and the manner for obtaining a permit. Failure to obtain the required permit, or violation of a condition of the permit is a misdemeanor.

Sec. 41.15.070. Disposal of burning materials.

A person who, during the fire season, throws away lighted tobacco, cigar, cigarette, match, firecracker, or other burning material on forested land, whether public or private, is guilty of a misdemeanor.

Sec. 41.15.080. Equipment and notice required.

A conveyance operated through or above forested land shall be equipped at all times in each compartment with a suitable receptacle for the disposition or reception of burning material mentioned in AS 41.15.070. The owner or operator of a public conveyance operated through or above forested land shall post and keep displayed at all times a copy of AS 41.15.050 - 41.15.080 and 41.15.140 in a conspicuous place within the smoking compartment of the conveyance. A person owning or operating a sawmill or logging camp or other commercial plant or operation in forested land shall post and keep displayed at all times a copy of AS 41.15.050 - 41.15.080 and 41.15.140 in a conspicuous place upon the building or ground of the milling, logging or commercial operation. A

person may not deface or destroy the notices required under this section. A violation of this section is a misdemeanor.

Sec. 41.15.090. Building or leaving fires.

A person who builds a fire in or near timber, brush, grass, or other inflammable material without first clearing the ground immediately around it free from materials that will carry fire or who leaves the fire before totally extinguishing it, is guilty of a misdemeanor.

Sec. 41.15.100. Setting fires without consent.

A person who sets on fire timber, brush, grass, or other inflammable material located or growing on land that is not owned, possessed, or controlled by the person, without the consent of the owner or lawful occupant of the land, is guilty of a misdemeanor.

Sec. 41.15.110. Uncontrolled spread of fire; leaving fire unattended.

(a) A person who knows of a fire or sets a fire on forested land owned, possessed, or controlled by the person, shall exercise due care to prevent the uncontrolled spread of the fire. A person failing to exercise due care which results in spread of the fire and damage to property of another is guilty of a misdemeanor.

(b) A person who neglects to make every effort possible to extinguish a fire the person knowingly sets on forested land or who leaves such a fire unattended is guilty of a misdemeanor.

(c) In a criminal action brought under this section, the escape of the fire is presumptive evidence of negligence by the person responsible for starting the fire and unless rebutted is sufficient to sustain a conviction.

Sec. 41.15.120. Failure to assist in preventing or suppressing fires.

If an officer or employee of the United States or the state who is authorized to prevent or suppress fires requests a person to assist in the prevention or suppression of a fire and informs the person of the officer or employee's official status, and the person fails to assist the officer or employee in the performance of duties, the person is guilty of a misdemeanor.

Sec. 41.15.130. Backfires excluded.

AS 41.15.010_ - 41.15.170 do not apply to the setting of a backfire under the direction of an officer or employee of the United States or the state who is authorized to prevent or suppress fires.

Sec. 41.15.140. Penalty.

A person who is convicted of a misdemeanor under AS 41.15.010_ - 41.15.170 is punishable by a fine of not less than \$25 nor more than \$500, or by imprisonment in jail for not less than 10 days nor more than six months, or by both.

Sec. 41.15.150. Criminal penalty for setting fires.

A person who maliciously or wantonly sets on fire timber, brush, grass, or other inflammable material located or growing on land that is not owned, possessed, or controlled by the person is guilty of a felony and upon conviction is punishable by a fine of not less than \$100 or not more than \$1,000, or by imprisonment for not less than one year nor more than 10 years, or by both.

Sec. 41.15.160. Double damages in civil actions.

In addition to the criminal punishment provided for by AS 41.15.010_ - 41.15.170, the United States, the state, a municipality, or any person may recover in a civil action double the amount of damages sustained as a consequence of a violation of AS 41.15.010_ - 41.15.170. In a civil action brought under AS 41.15.010_ - 41.15.170 or any other law relating to the subject matter of AS 41.15.010_ - 41.15.170, the escape of a fire is presumptive evidence of negligence by the person responsible for starting the fire and unless rebutted is sufficient to sustain the recovery.

Sec. 41.15.170. Definitions.

In AS 41.15.010_ - 41.15.170

(1) "damages" includes costs incurred in suppressing, controlling, or extinguishing a fire;

(2) "forested land" includes all land on which grass, brush, timber, and other natural vegetative material grows;

(3) "forest fire" includes the uncontrolled burning of grass, brush, timber, and other natural vegetative material.

Source: *Alaska Legislative Infobase, Alaska Statutes 2006*

(<http://www.legis.state.ak.us/cgi-bin/folioisa.dll/stattx06/query=41!2E15/doc/{@16066}?>)